

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

|                                   |   |   |
|-----------------------------------|---|---|
| <b>WESLEY KEITH HOLMES, JR.,</b>  | ) |   |
|                                   | ) |   |
| <b>Plaintiff,</b>                 | ) |   |
|                                   | ) |   |
| <b>v.</b>                         | ) | <b>Civil Action No. 3:07-cv-00241-WKW</b> |
|                                   | ) |   |
| <b>SHERIFF JAY JONES, et al.,</b> | ) |   |
|                                   | ) |   |
| <b>Defendants.</b>                | ) |   |

**ANSWER**

COME NOW Sheriff Jay Jones, Major Cary Torbert, Jr., and Lt. Corey Welch, Defendants in the above-styled cause, and answer the Plaintiff's Complaint as follows:

**Answer**

The Defendants in this action deny each and every allegation made by the Plaintiff, Wesley Keith Holmes, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

**Affirmative Defenses**

1. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's claims.
3. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.
4. Defendants in their official capacities are not "persons" under 42 U.S.C. § 1983.

5. The Plaintiff's claims are barred by the Prison Litigation Reform Act.
6. Plaintiff fails to allege any affirmative causal link between the alleged acts of Defendants and any alleged constitutional deprivation or Defendants' direct participation in any alleged constitutional violation.
7. Defendants are not liable based upon *respondeat superior* theories of liability.
8. The Plaintiff cannot prove a violation of his rights under the Eighth or Fourteenth Amendments to the United States Constitution.
9. Defendants were not deliberately indifferent in any respect.
10. The Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.
11. This Court lacks subject matter jurisdiction over the Plaintiff's claims for injunctive relief.

Respectfully submitted this 30th day of May, 2007.

**s/Ashley Hawkins Freeman**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this the **30th** day of **May, 2007**, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Wesley Keith Holmes, Jr.  
Lee County Detention Center  
P.O. Box 2407  
Opelika, AL 36803

**s/Ashley Hawkins Freeman**  
OF COUNSEL